



Zero tolerance for zero tolerance?: Analyzing how zero tolerance discourse mediates police accountability activism

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ABSTRACT

While several scholars critically analyze the effects that the New York Police Department's zero tolerance policy has on poor minority communities, few have adequately explored contestations to the policy. This article draws on interview data from the Communities united for Police Reform campaign in New York City to investigate how zero tolerance discourse is inflected in the claims, demands, and strategies of police reform activists. I chronicle how several core principles underlying the NYPD's zero tolerance policy resonate in activists' grievances and demands for reform, culminating in pursuit of what I term *accountable zero tolerance*. These data, I posit, provide insight into the resilience and depth to which zero tolerance discourses influence shared understandings of criminality, crime, and law enforcement.

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Introduction

During the past two decades, a wide range of police scholars (Eterno & Silverman, 2006; Sciarabba, 2009; Vitale, 2005, 2008) and criminologists (Garland, 2002; Parenti, 2008; Wacquant, 2009; Young, 2011) have placed the New York Police Department's (NYPD) "zero tolerance" policy under a microscope, documenting the myriad of abuses it inflicts in poor black/brown communities. Often analyzed in contrast to "community policing" experiments in the late-1980s intended to incorporate everyday citizens into precinct decision making, these works attribute the abuses attendant to zero tolerance as partial products of its non-negotiating, semi-militaristic approach. Though crucially important, these studies leave issues of contestation to the NYPD largely unexplored. Some examinations of broader criminal justice developments even verge on denying the existence of opposition (Alexander, 2010, 9; Garland, 2002, p. 51). But the relationship between police and minority communities is more complex, replete with examples of

contention. The present article addresses this gap in academic literature by exploring recent claims, demands, and strategies police reform activists mount against the NYPD. Moreover I investigate the ways in which police accountability activists reproduce the NYPD's underlying assumptions about crime control, so as to gain deeper insights into the extent to which zero tolerance discourse steers and constrains public opposition.

This article argues that the NYPD's implicit assumptions about crime and crime control are inflected in police reform activists' criticisms of NYPD policies, and subsequent reform efforts. I document how, on one hand, activists involved in the Communities united for Police Reform (CPR) mobilize around claims that the NYPD policies violate democratic values of civilian representation in public institutions and promote discriminatory and hyperaggressive practices. These criticisms, however, did not translate into concrete demands for substantively modifying the NYPD's decision making procedures or aggressive regulation of petty crimes and incivilities. Instead, activists' strategies and demands are anchored in a policy of *accountable zero tolerance*; or, a tempered version of zero tolerance mediated through public oversight that minimizes police infractions with ordinary New Yorkers. This ambivalence, I posit, is highly indicative of the

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resilience of the NYPD's emphasis on using force on petty crimes and autonomous decision making.

Contestations to zero tolerance?

While specifics characterizing the interplay between NYPD discourse, policy, and public contestation are significantly understudied, there is a rich body of scholarship investigating those discourses and policies. Several scholars (Garland, 2002; O'Malley & Palmer, 1996; Smith, 1998; Vitale, 2008; Wacquant, 2009) have shown the NYPD's implementation of zero tolerance policies circa Giuliani's 1994 inauguration to signal a definitive break from the policy regimes of the 1960s and 1970s, which designated police as agents of "social welfare" alongside public welfare agencies, federal employment bureaus, rehabilitation centers, and homeless shelters. This "welfarist" model, scholars often assert, is the normative bulwark against which the present NYPD's discourses and policies are constructed. On the side of discourse, the NYPD's alternative is underwritten by broken windows and quality of life (QOL) discourses that regard intensive, preemptive policing of low-level public incivilities and misdemeanors as the most effective method of crime prevention, rather than providing deviants and at-risk persons with social assistance (see Wilson, 1978, Kelling & Wilson, 1982; Bratton & Kelling, 1998). On the side of policy, this approach has crystallized as "zero tolerance," characterized by the non-negotiable, aggressive enforcement of petty crimes through sweeps, saturation patrols, massive roundups, and large-scale expulsions of undesirable persons.

While academic critics of this approach concentrate on its discriminatory application, issues of opposition have remained largely unexplored. Instead, a wide variety of researchers (Bass, 2001; Bloch, Fessenden, & Roberts, 2010; Dunn, Eisenberg, Lieberman, Silver, & Vitale, 2003; Dunn et al., 2005; Harring & Gerda, 1999; Harring, 2000; Jones-Brown, Gill, & Trone, 2010; Levine, 2011; Mcardle & Erzen, 2001; Parenti, 2008) focus on how these policies explicitly track down black and Latino males, and have shown racialized police brutality to be symptoms rather than aberrations of the NYPD's emphasis on profiling, regulating behavior, and overreliance on force. Others (Eterno & Silverman, 2006; Haberman, 1997; Harcourt, 1998; Livingston, 1997; Sciarabba, 2009) illustrate the departure from "problem oriented" and "community policing" models that stressed police–public cooperation and citizen involvement in precinct decision making alongside the department's increasing insulation from the public. Such distancing from the public, it is often noted, has been hastened by the department's burgeoning statistical emphasis that has created an internal accountability system which not only widens the chasm

between police and "problem communities," but also pits them against one another (see Sciarabba, 2009).

Similarly, critical penological and criminological works have generated rich research chronicling these transformations, but have also left issues of opposition largely by the wayside. Scholarship sensitive to cultural norms (Garland, 2002; Kraska, 2001b; Noakes & Gillham, 2006; Simon, 2001, 2009; Torres, 2001) focus on the extent to which the aggression of present policing parallels wider national trends, characterized by markedly disciplinarian and retributive notions of criminal justice. Many seminal macro-scale sociological analyses (O'Malley & Palmer, 1996; Wacquant, 2009) emphasize national and global political economic processes, and postulate an intimate relation between social dislocations wrought by the dissolution of welfare assistance, deindustrialized labor markets, and ultra-punitive penal policies. O'Malley and Palmer (1996) trace the emergence of aggressive policing styles alongside retrenchment of Keynesian governance and subsequent recasting of communities as voluntary, private units responsible for their own safety. Similarly, Wacquant (2009) argues that the rise of the American penal state parallels the "downsizing of its welfare sector" characterizing the post-Keynesian age. Though these studies cast considerable light on the broader contexts in which policing styles transform, they leave many questions concerning how these shifts play out on the ground unanswered.

Still others (Christie, 2000; Kraska & Kappeler, 1997; Kraska, 2001a, 2001b; Parenti, 1999; Simon, 2009) centering analysis on national politics trace the recent paramilitarization of police forces to post Cold-War narratives disseminated by government elites who, lacking the communist foil, have turned their attention to criminals and the domestic "war on crime." While each strand persuasively links the rise of hyperaggressive law enforcement to macro-scale political economic and criminal justice developments, matters concerning micro-resistance at the community level are still widely unexamined.

Analyzing contestations to the NYPD

In analyzing how zero tolerance discourse mediates contestations to the NYPD, I investigate the Communities united for Police Reform (CPR) in New York City. Formed in opposition to discriminatory policing, CPR includes nearly 40 civil libertarian and grassroots groups. Several of its founding members met at the ALCU-led Coalition for Community Safety summit in Puerto Rico in the summer of 2008, and formally created a steering committee at the Open Foundation in October of 2010. The CPR campaign is ideal for gleaning the depth to which post-welfarist discourses are inflected through shared knowledge about policing, as it provides insights into how the

viewpoints and strategies of those who attempt to think outside the box of conventional law enforcement are mitigated.

CPR's board includes 4 working groups and 2 committees that employ a diverse range of tactics. The working groups meet monthly to coordinate 'know your rights' trainings, counter-surveillance of police, lawsuits, voter mobilization, and academics studies aimed at "debunking the myths" of the NYPD's official philosophies and rhetoric. The committees convene every 6–8 weeks, and focus on filing lawsuits and generating publicity through media campaigns and canvassing. The breadth of activists involved in the campaign allows for generalizations about how zero tolerance discourse influences shared concepts of crime control, as it encompasses diverse forms of social knowledge drawn from both radical and mainstream civil rights traditions on the US's political left.

In tracing how zero tolerance resonates in activists' perspectives, I use discourse analysis of 21 ordinary language interviews with activists on the CPR's steering committee, save Make the Road (who declined to take part in the study). My interview protocol revolved around open-ended questions including: How did you get involved in Communities united for Police Reform? What main issues do you raise? What tactics do you use to prompt reform? What setbacks have you encountered so far? What successes have you had so far? How would you change the NYPD given the chance?

Interviews were conducted with one to six participants at a time, and lasted from 15 minutes to 3 hours. My recruitment strategy involved judgmental sampling and the arrangement of interviews by email, phone, and walk-in requests at organizational headquarters. My interview technique was based on asking probing questions intended to enjoin participants to articulate beliefs on the police's proper social function and how zero tolerance conflicted with such ideals. Interview data were collected on a digital recorder, and transcribed for inspection through an interpretive method of isolating key words, themes, and sentiments emerging across dialogues. Interviewees were purposively selected for a fair distribution of gender (11 female, 10 male), overrepresentation of minority racial/ethnic identifiers (3 multiracial, 7 black, 5 Latino/a, 4 white, 2 Asian), and overrepresentation of age groups socially aware before the institutionalization of present NYPD policies (3 20–29, 10 30–39, 5 40–49, 2 60–69, 1 70–79). Participants were anonymized, given pseudonyms according to affiliation.

Framing grassroots grievances

Communities united for Police Reform's grassroots tactics are handled by working groups, who organize

legal training sessions for laypersons, litigation, electoral mobilization, and academic research. The thrust of grassroots critiques of the NYPD was directed at how zero tolerance conflicted with the democratic values of representative institutions, checks-and-balances, and community control. Many pointed to the lack of civilian agency when zero tolerance was first implemented, creating a situation in which, as JC1 said, "officers are acting outside the law, and practically *told* to beat innocent black people up." Indeed many criticisms centered on assertions that the city's movement to institute broken windows and zero tolerance was discriminatory itself, fueled by a politics of scapegoating, and culminating in the department's increasing enmity toward low-income minorities. Two dominant themes emerging in grassroots activists' interviews were that zero tolerance policy was implemented and is conducted in a decisively undemocratic fashion and, as such, usurps community control from residents in targeted neighborhoods who are effectively stripped of legal protections.

Proposed sources of police unaccountability

Several grassroots activists expressed a sense that zero tolerance lay hold of community space, creating feelings of imprisonment among residents of impacted areas. They explained that, since the implementation of zero tolerance, spaces where persons from devalued social groups that once served as sites of refuge were now marked as targets for violating the disorderly conduct statute. Indeed the statute, which states that a person is in violation of public order for a variety of vague behaviors including unreasonable noise, and obscene language or gestures (§240.20 of New York state's penal law), was widely believed to convey a *carte blanche* to officers to harass if not brutalize marginal persons.

Several activists intuited that, following Dinkins's 1993 departure, Giuliani's administration moved diligently to make the NYPD work in service of interests external to low-income minority communities, thereby undermining residential control of precincts. One member on CPR's communications committee, PTH1, asserted that the focus on disorderly conduct increased in tandem with the city's dominant political and economic groups' influence on police policy. PTH1 argued:

"we discharged [former commissioner] Brown, and then the Manhattan Institute comes and it tells Giuliani – after he lost [the mayoral election] the first time – the Manhattan Institute says, 'you wanna get elected, get tough on crime.' How do you get tough on crime? You take the [weakest] among citizenry to cut the political loss. They're defenseless."

The sentiment was punctuated by PTH2, who exclaimed the “people in New York didn’t vote on broken windows. Quality of life offenses, the citizens didn’t vote on that. So now you have people profiled because of their race, they’re profiled because they’re queer, they’re profiled because they look homeless.”

To compound matters, several activists posited this transformation was interwoven into a number of economically and racially-divisive objectives, ultimately geared toward making the city more accommodating to white gentrifiers. Community empowerment activist MXG1 asserted:

“In matters of public safety, it’s safe for white men and white women, it’s safe for the white kids – in specific classes, with a specific sexuality, in specific neighborhoods. And for neighborhoods that are being gentrified public safety is a huge concern. Sunset Park is being gentrified and the white folks want to be like, ‘this is fine, I live in a diverse neighborhood with all of these people of color still walking around.’ So the cops are like, ‘we need to keep this space safe for gentrifiers’...When we talk about ‘public safety’ it goes back to who is the subject you’re keeping safe.”

The dislocation between NYPD interests and those of residents of densely policed localities was argued to have particularly deleterious effects in LGBTQ communities, who were believed to “literally embody disorder” within the zero tolerance framework. It was argued that zero tolerance policing transformed traditionally LGBTQ-accommodating areas like Jackson Heights and the West Village into hotspots of homo- and transphobic police aggression. SAS2 explained that since the inception of zero tolerance, “transgender women [and] gay men are routinely profiled as either trading sex for money, or loitering for the purposes of prostitution, or being engaged in lewd conduct. It’s like, ‘you’re standing in the park, you’re gay, you must be engaging in lewd conduct.’”

Reforms implicitly posited by grassroots activists

CPR’s grassroots cohort consistently asserted that broken windows, quality of life enforcement, and zero tolerance were neither formulated with, nor approved by residents of targeted communities.¹ Much criticism was concentrated on the disorderly conduct

statute, which was held by activists to have put defenseless minorities at the mercy of officer discretion. Put into action, several activists asserted, escalated enforcement of the disorderly conduct statute created a legal vacuum in targeted communities and established environments more conducive to bias-based profiling than ever.

Yet a number of interviewees revealed that they were not necessarily against the broken windows theory intrinsic to NYPD policy, indicative of a preference for accountable zero tolerance. “There are people,” PTH3, “out there creating actual disorders whether it’s graffiti or fighting or theft or what have you. [The NYPD] should be focusing on that instead of a kid whose pants are sagging.” Similarly, SAS2 said, “there are instances of real lawbreaking and then those instances of disorderly conduct infractions – what [Communities united for Police Reform] is trying to accomplish is eliminating the unfair enforcement of those infractions.”

The crux of criticism was not aimed at the validity of broken windows and zero tolerance, but was instead centered on the complaint that enforcement of the disorderly conduct statute created a legal vacuum by devolving extraordinary discretionary powers to officers, fueling abuse of orderly minority residents. Responding to the recent explosion of disorderly conduct citations, PTH3 explained that: “the first [problem] with disorderly conduct is because if you’re accused of an infraction, and I use the word ‘infraction’ because sometimes you’re accused of something that’s less than a crime, [it’s] is too vague to defend, then you can’t exercise your right to defend yourself even if it’s unclear how you did anything wrong.”

Moreover, several contended that the NYPD’s escalating enforcement of the disorderly conduct statute translated into breakdowns in checks-and-balances to the department, giving rise to a situation in which accountability was categorically impossible, and the stigmatization of marginal persons was normalized. This concern notwithstanding, several activists expressed disappointment that the police focused on ill-defined disorderly conduct infractions at the expense of doing “serious police work.” If [the police], PTH2 asserted, “were actually bound to focusing on people who committed real crime – if they were bound to the actual law – then ordinary, innocent New Yorkers wouldn’t be [abused by police].”

Similarly, SAS1 argued “[the] police would be able to actually increase feelings of public safety if they asked communities help to identify the bad guys. The communities know who the real criminals are, and [the police] could do more serious work if they were listening.” This sentiment was echoed by interviewees from the Justice Committee who emphasized that their work revolved around giving a voice to “ordinary

¹ Although interviewees insisted the implementation of zero tolerance approaches was top-down, there is considerable scholarly work suggesting that community-based actors often play a significant role in departments’ adoption of such policies (see DeMichel & Kraska, 2001; O’Malley & Palmer, 1996; Vitale, 2005). These works, however, express deep skepticism of community policing models as substantive alternatives to zero tolerance, as they do not necessarily translate into critiques of post-welfarist emphases on expanding law enforcement, punitive penal policy, and criminalizing disadvantaged groups.

people” who “just want to go to work and live their lives.”

Framing professionals’ grievances

The campaign also employed a variety of tactics handled by professional activists in NYCLU, the Center for Constitutional Rights, and several public defenders who file lawsuits and publicize police abuse through media campaigns and canvassing. Here critiques cohered around the uncooperative nature of zero tolerance, and consequent distrust of the NYPD permeating minority communities. Many of CPR’s professional activists were involved in police violence activism in the early 1990s when “community policing” was in vogue, and perceived zero tolerance as a comparatively divisive approach with a statistical emphasis that stigmatized entire populations. One program director, NYCLU2, asserted that zero tolerance is: “biased-based policing, and we realized that it’s directly coming from the top. It’s a policy and practices initiated for the last 15 years and it’s overly-affecting communities of color and low-income and vulnerable communities across New York City.” Consequently, it was argued that mistrust between the police and impacted communities grew exponentially, enjoining residents to side with known criminals within heavily policed localities.

Professional activists often asserted that the NYPD estranged members of poor minority communities, deterring civilian cooperation with police and thereby undermining the police’s capacity to detect and/or apprehend criminals. NYCLU1 asserted: “they say [zero tolerance] increases public safety. But I would beg to differ, because you have people in communities that *hate* police officers because of this. These kinds of practices make people very distrustful of NYPD, so when you don’t trust them you’re not going to work with them.”

NYCLU2 added:

“By intimidating and being aggressive towards the innocent people you build resentment of the department from those folks. You also fail to receive cooperation to find the real criminals, and then [the police] say, ‘see those people won’t even tell us who the bad people are and that’s why it’s ok to treat them like they’re criminals.’ ”

A public attorney from BXD described discriminatory police practices along the lines of the NYPD’s “obsession with arrests,” that incentivizes police targeting young, poor black and Latina/o New Yorkers. Similarly a police misconduct attorney, SAS1, echoed this explaining that: “I just don’t think the NYPD is actually producing that right now. I think that the police aren’t necessarily dealing with violence; they’re

committing violence. [The police] are throwing the wrong people up against the wall.’ ”

Several activists from NYCLU and CCR stated that by incorporating members of affected communities into police decision-making procedures, NYPD resources would be concentrated on capturing “real bad guys,” and not wasted on inconveniencing ordinary people. The activists believed that integrating community voices into the NYPD would bolster community trust of the police, and lead to cooperative efforts in pursuing and apprehending local criminals. The crux of professionals’ criticism, as it was, revolved around the application of zero tolerance rather than the policy itself, leaving several underlying axioms intact.

Examining explicit reform efforts: tactics and proposals

While Communities united for Police Reform’s critiques of zero tolerance were anchored in complaints that ordinary minorities were shut out of department decision making and subjected to blanketed police aggression, the activists’ concrete solutions were not aimed at replacing department policy with communal, non-enforcement alternatives. On the contrary, efforts to reform the police department involved creating mechanisms to limit the effects of zero tolerance on ordinary civilians, while leaving its underlying fundamentals largely unchanged. The campaign’s overall objective in reforming the NYPD revolved around fortifying public oversight of the police, so “police really start to work with communities to identify problems in communities, not just focus on stopping any young black boy because there’s a possibility that he is a criminal.” Indeed some of the interviews suggested that, like the NYPD, activists were apt to view the police function as a simple matter of cracking down on local deviants.

Extant mechanisms of police accountability

One of the grassroots workers’ central demands was that a sense of community control of public space was restored to local residents, measured by the degree to which people with non-mainstream cultural traits felt free to express themselves without fear of being targeted for a citation. As a result community empowerment teams organized neighborhood “copwatch” squads that conduct surveillance of police–community interactions, pioneered in New York by MXG’s People’s Self Defense Campaign, Medgar Evers Center for Law and Social Justice, and the National Conference of Black Lawyers in 1993. Interviewees viewed their role as organizing demands for more counter-surveillance in heavily patrolled spaces to “let police know they cannot terrorize entire communities with

impunity, let them know they can't be increasing crimes in our communities."

The copwatches involve civilians who conspicuously monitor officers on foot and from vehicles, making their presence known to both police and passersby. Since the early 2000s, interviewees noted, the demand for copwatches has permeated throughout locales where highly publicized police violence has occurred. MXG works closely with Justice Committee to co-coordinate the 'People's Justice Coalition' (PJC), which trains and organizes surveillance teams in a city-wide network to 'demonstrate an organized and unified resistance to police misconduct and brutality.'

In order to join, teams must attend one training session and agree the *PJ Cop Watch Network Guidelines and Protocols* which includes: planning to conduct at least 6 copwatches per year; use 'know your rights' pamphlets which include mention of trans and immigrant communities; agree to document incidents of police abuse regardless of the victim's social identifiers; and report to PJC's coordinating body's quarterly meetings to share data and footage. The coalition supplies local teams with video equipment and hand-held radios and maintains listserv to publicize when members get arrested or issued summons, disseminate contact sheets of on-call attorneys who come to arraignments, and share footage of police transgressions online on the network's website, YouTube, 'blast emails,' and digital copies of its e-journal, *Police Violence Weekly Digest*.

MXG1 explained that the copwatch's fundamental purpose was to:

"hold cops accountable on the street, like, 'you are here, there is our block, this is our neighborhood.' The reality is that this [*points*] is a building owned by whoever, but this is our home, this is our block and we should be able to feel safe. We need to let the cops know that they're accountable to the folks that live on the block. You can't bust down an innocent person's door and not feel responsibility or accountability to that community."

MXG2 explained what a successful copwatch patrol looked like:

"we've rolled up on situations where officers changed their language the moment they see [copwatchers]. It's been like them yelling 'take your shoes and your hats off, or your jacket off' or whatever – and that's a strip-search, they can't ask you to take any of that off... There was one time when [the police] pulled over a car of young black men, and asked them to get out the car. By the time we came up the young men were really confused, they were like, 'what's going on?' The cops were cursing them out telling them to take off their shoes, take off their jackets.

And we had a camera with a very good light and we shined it on [the cops], and the cops literally started changing their behavior and were like, 'you don't *have* to take your shoes off.' The men were like, 'but you just told us to take our shoes off' [*laughs*]. But the cops were like, 'you don't have to do that,' and calmed down, and just gave them a ticket."

In comparison with other CPR activists, those from MGX were decisively ambivalent in their view of internal institutional reforms to the NYPD, focusing instead on community-based practices among "people who have no choice but to deal with [the police] on a daily basis." The patrols were intended to embolden residents of densely patrolled neighborhoods vis-à-vis the police, so as to attenuate the intensity with which officers interacted with civilians. The point was not to attempt to reform zero tolerance from the inside so much as it was to impose restraints on officers from the outside.

Intra-community police accountability mechanisms

The campaign's grassroots efforts also involved educational services to inform citizens of their rights during police encounters, and vying for the city to provide resources toward this end. Educative sessions were conducted in close collaboration with professional activists, as they were intended to translate technical legal knowledge into layperson terms via 'Know Your Rights' forums and pamphlets. NYCLU2 explained that public education services were essential in light of the fact that:

"one of the most important ways to affect change is for people to *know* what their rights are, and what cops are allowed to do and what they're not allowed to do. Because a lot of times with searches people willingly open up their pockets, or they willingly volunteer their lives because they're scared, they're intimidated, they actually have no idea that they're allowed to say 'no.' "

NYCLU has been particularly prolific writing palm cards that inform persons what to do if stopped by police, provide information about de-escalating encounters with police, and offer legal protections if stopped, questioned about immigrant status, contacted by a federal agency, arrested, or taken into custody.

To institutionalize these practices, CPR is in the preliminary stages of a large scale plan to organize a 'Know Your Rights training academy,' which would train 5000 citizens in affected communities to conduct know your rights workshops. The academy would be a public-private partnership, and was viewed as crucial to establishing NYPD accountability. NYCLU1, who works

with the grassroots activists, asserted: “you can pass all the legislation you want, if communities aren’t empowered and they don’t know what’s going on, then it’s all for naught – it’s really not going to mean anything.”

Similarly, JC1 explained that they disseminate “law manuals” for local community groups with information on petitions, candidates’ ballot positions and PACS with respect to issues of police abuse in Latino communities and progressive policy. This was aimed at keeping permanent pressure on city legislators so they would “actually do something about sanctioning abusive police in our communities.” Distributing manuals is part of broader efforts to affect how the city handles police abuse via debate-watches, voter education panels, and voter registration drives at Columbia University, New York University, Hunter College and Borough of Manhattan Community College.

CPR’s educative services are also aimed at instructing minorities on what constitutes police discrimination, because, NYCLU1 argued, “ignorance of the rules is a lot of the time the source of abusive policing practices.” SAS maintains a website with an interactive tutorial that teaches users how to navigate the criminal justice system at the several points it makes contact with persons from targeted communities, giving advice to individuals on what to do after being detained or getting a summons. SAS1 explained that the site is part of a larger outreach program advising LGBT persons of their rights when dealing with police trying to determine a civilian’s gender; acquiring “special prisoner” status when in custody; and explaining (un)acceptable forms of evidence usually used against LGBT youth in criminal courts. SAS1 explained that these services, that teach individuals how to navigate the criminal justice system once in contact with it, are provided because “once you get stopped you’re just in a whirlwind and then it’s like a washing machine spits you out, and then you have a record and you have no idea what the hell just happened.”

Proposed reforms to city institutions

At the time of my fieldwork, professional activists’ main demand was for the city to establish an independent Inspector General to monitor the NYPD.² This objective was intertwined with demands for rendering the NYPD more transparent, particularly through sharing department data on arrests, citations, complaints, and the like. Interviewees conveyed two closely related, often entangled, albeit distinct views on the value of these forms of public oversight. For some,

public oversight was deemed the first step toward substantively altering zero tolerance. But the general sentiment was that public oversight facilitated a measure of checks-and-balances on the NYPD, and while monitoring the police and the effects of zero tolerance wouldn’t necessarily upend the policy, it would provide for its more judicious application.

The emphasis on monitoring officers’ conduct has underlined CPR’s watchful eye over Civilian Complaint Review Board (CCRB) developments, and its continuous efforts to reestablish the special prosecutor for city eliminated by Governor Cuomo in 1990. The city, CCR2 maintained, has “had different accountability mechanisms and models, although very limited in scope and size: commissions, inspector generals, independent investigations – nothing sustainable, nothing long-lasting, nothing entirely comprehensive.” CPR’s attorneys subsequently challenged the city to create a new office with an Inspector General with “broad prosecutorial authority” and the resources to substantiate allegations of police abuse.

The focus on oversight resonated in the campaign’s legislative flagship, the Community Safety Act, which was introduced to the City Council on February of 2012.³ The proposed law is publicized as the first step of a ‘major overhaul of the out-of-control, unlawful and discriminatory practices of the NYPD.’ It was made up of four bills that were introduced by council member Jumaane Williams of the 45th district, who explained that these were simply meant to “check up” on NYPD, rather than substantively alter NYPD policy of policymaking procedures. Oversight, Williams explained, was the crux of the bill as:

“it’s [not] necessarily fair to look at the layperson and say, ‘give me your solutions.’...I think it’s up to people like [Commissioner] Kelly, the Mayor, and us who are elected to do that kind of processing – to come up with solutions, and ask the community, ‘what do you think about these solutions?’ ”

In addition to an Inspector General, CPR campaigners were also diligent in demanding that the NYPD share more internal data, particularly with reference to stop-and-frisk. Several interviewees equivocated on whether they opposed the practice in itself, or merely the racial disparities with which it’s conducted. JC1 exclaimed that the thrust of these efforts was, at its most basic level, “scaling the police back so they’re not indiscriminately roughing people up just for being a minority.” Many working on the legal teams echoed this, stressing the importance of data for substantiating claims that zero tolerance is discriminatory, and elucidating the collateral consequences to the public.

² In August of 2013 US District Judge Shira Scheindlin ordered an independent monitor to investigate the stop-and-frisk tactic. The first-ever Inspector General of the NYPD assumed office in May of 2014.

³ The Act was vetoed by former-Mayor Bloomberg on August 22, 2013.

During interviews, lawyers tended to articulate the importance of available data with reference to the CCR's landmark 1999 class action suit, *Daniels, et al. v. the City of New York*, which targeted stop-and-frisk data in the wake of Amadou Diallo's killing, and prompted the disbandment of the Streets Crime Unit, an anti-racial profiling policy, and regular internal audits on stop-and-frisks. Several accentuated the effectiveness of *Daniels*, and how it paved the way for a 2003 federal class action suit, *Floyd, et al. v. the City of New York*, which blocked former-Governor Paterson's bill to prohibit retaining information of persons stopped but not charged, lest it expunge evidence of racial disparities. CCR 1 explained that these suits provided:

“data to show how zero tolerance abuses are official policy. The more transparency we get, the more we see how deeply ingrained these types of practices are in the NYPD. There are policies that the police engage with that are known to fuck up people's lives, so we need access to who and where the stops are concentrated to understand the scope [of discriminatory practices].”

NYCLU2 punctuated this line of attack, explaining how NYCLU's 2007 suit in the state Supreme Court, *NYCLU v. New York City Police Department*, resulted in the NYPD having to disclose its stop-and-frisk statistics. NYCLU, it was emphasized, has since released quarterly stop-and-frisk reports and analyses, including breakdown stops by precinct, reason for stop, stops resulting in frisks, stops involving use of force, gun recoveries, and innocent stops – all with reference to race, ethnicity, and age. These data, activists explained, would help mobilize public suspicion of zero tolerance so as to “rein in overzealous cops.”

Likewise, one of CPR's public defenders, BXD1, articulated how the Bronx Defenders have been at the forefront of bringing to light racial disparities in police interdictions, arrests, and civil liberty abuses through interviews with indigent persons and persons of color throughout the borough. BXD1 underlined how crucial data were drawing attention to how the organization's 2011 Marijuana Arrest Project (MAP) amassed interview data from people arrested for low-level marijuana possession in every precinct in the city, and demonstrated that approximately 40 percent of arrestees were subjected to unconstitutional searches and seizures and/or improper charges. “We've collected all this information on our own,” BXD1 said, “so imagine what we might find with direct access to more of [the NYPD's].”

CPR's academicians saw publicizing these data as a corrective mechanism to improve NYPD policy, rather than a matter of “telling police how to do their job.” JJ1 expressed the need for data as necessary to making NYPD discrimination part of public knowledge and, by

extension, public discourse. “A lot of these quote-unquote quality of life tactics,” JJ1 said, “[like] loitering, public urination, drinking in public which we see being enforced on certain populations and with certain ramifications. The challenge is to make this stuff common knowledge [and] and present it in meaningful [and] understandable way.” Again, the activist's views on the principle of enforcing these behaviors were unclear.

Conclusion

While Communities united for Police Reform's activists articulated deep discontent with the effects of NYPD aggression in minority communities, interview data illustrate that several distinctive, core zero tolerance concepts went uncontested by the campaign's most ardent critics. This was demonstrated in reformers' ambivalence toward the police department's emphasis on using aggressive enforcement to regulate actual petty crimes. Indeed the crux of grassroots activists' grievances was that zero tolerance policy was indiscriminately applied in poor minority communities, failing to discern ordinary citizens from the “real bad guys.” Professional activists were mostly concerned with how zero tolerance violated minorities' basic civil liberties en masse, thus stirring police–community antagonism in a way that undermines public safety. Again the common thread pertained to zero tolerance's sweeping application in poor communities of color, rather than its underlying philosophy. The conspicuous absence of concern for rehabilitating or assisting petty deviants or pursuing non-enforcement crime control methods conveyed deep indecision toward the department's fundamental criminological and policing theories.

Furthermore, while some activists called the NYPD's institutional autonomy into question, there were no demands to reform the department's internal decision making procedures. Instead, grassroots efforts consisted mostly of organizing counter-surveillance copwatch teams to document police–community interactions, and dissuade overly aggressive policing. Similarly, professional activists concentrated on instituting an independent Inspector General to monitor police data and civilian complaints. Rather than proposing reforms to the NYPD's decision making structures, both focused on external watchdog mechanisms believed to moderate the abrasiveness with which officers patrol minority neighborhoods.

These findings demonstrate that activists' pursuit of NYPD reform did not translate into a cogent plan to substantively change the department's philosophy or internal procedures. These data are particularly relevant for advocates of replacing zero tolerance with “community policing” and/or “problem-oriented models,” illustrating the insidiousness and adaptability

of zero tolerance discourse, and the ways in which its concepts enter competing visions of law enforcement. Further research is therefore merited to understand whether CPR activists' equivocation toward zero tolerance indicates a deliberately incremental strategy, internal divisions in the campaign, or general acceptance or unwitting compliance with NYPD philosophy. Such inquiry would provide clearer insights into the depths to which post-welfarist notions of crime control penetrate shared understandings of criminal justice, and subsequent obstacles in realizing substantive reform.

Appendix: Abbreviations of organizations

Name	Abbreviation
Bronx Defenders	BXD
Center for Constitutional Rights	CCR
Communities united for Police Reform	CPR
John Jay Department of Law, Police Science and Criminal Justice Administration	JJ
Justice Committee	JC
Make the Road, New York	MTH
Malcolm X Grassroots Movement	MXG
New York Civil Liberties Union	NYCLU
Precinct Community Council	PCC
Picture the Homeless	PTH
Streetwise and Safe	SAS

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